

# House File 2134

HOUSE FILE \_\_\_\_\_  
BY COMMITTEE ON  
HUMAN RESOURCES

(SUCCESSOR TO HF 2035)

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act relating to the medical assistance and state supplementary  
2 assistance programs, providing an effective date, and  
3 providing for retroactive applicability.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
5 TLSB 5555HV 80  
6 pf/sh/8

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1 1 Section 1. Section 135C.1, subsection 17, Code Supplement  
1 2 2003, is amended to read as follows:  
1 3 17. "Residential care facility" means any institution,  
1 4 place, building, or agency providing for a period exceeding  
1 5 twenty-four consecutive hours accommodation, board, personal  
1 6 assistance and other essential daily living activities to  
1 7 three or more individuals, not related to the administrator or  
1 8 owner thereof within the third degree of consanguinity, who by  
1 9 reason of illness, disease, or physical or mental infirmity  
1 10 are unable to sufficiently or properly care for themselves but  
1 11 who do not require the services of a registered or licensed  
1 12 practical nurse except on an emergency basis or who by reason  
1 13 of illness, disease, or physical or mental infirmity are  
1 14 unable to sufficiently or properly care for themselves but who  
1 15 do not require the services of a registered or licensed  
1 16 practical nurse except on an emergency basis if home and  
1 17 community-based services, other than nursing care, as defined  
1 18 by this chapter and departmental rule, are provided. For the  
1 19 purposes of this definition, the home and community-based  
1 20 services to be provided are limited to the type included under  
1 21 the medical assistance program provided pursuant to chapter  
1 22 249A, are subject to cost limitations established by the  
1 23 department of human services under the medical assistance  
1 24 program, and except as otherwise provided by the department of  
1 25 inspections and appeals with the concurrence of the department  
1 26 of human services are limited in capacity to the number of  
1 27 licensed residential care facilities and the number of  
1 28 licensed residential care facility beds in the state as of  
1 29 December 1, 2003.  
1 30 Sec. 2. Section 135C.4, Code 2003, is amended to read as  
1 31 follows:  
1 32 135C.4 RESIDENTIAL CARE FACILITIES.  
1 33 Each facility licensed as a residential care facility shall  
1 34 provide an organized continuous twenty-four-hour program of  
1 35 care commensurate with the needs of the residents of the home  
2 1 and under the immediate direction of a person approved and  
2 2 certified by the department whose combined training and  
2 3 supervised experience is such as to ensure adequate and  
2 4 competent care. All admissions to residential care facilities  
2 5 shall be based on an order written by a physician certifying  
2 6 that the individual being admitted does not require nursing  
2 7 services or that the individual's need for nursing services  
2 8 can be avoided if home and community-based services, other  
2 9 than nursing care, as defined by this chapter and departmental  
2 10 rule, are provided. For the purposes of this section, the  
2 11 home and community-based services to be provided shall be  
2 12 limited to the type included under the medical assistance  
2 13 program provided pursuant to chapter 249A, shall be subject to  
2 14 cost limitations established by the department of human  
2 15 services under the medical assistance program, and except as  
2 16 otherwise provided by the department of inspections and  
2 17 appeals with the concurrence of the department of human  
2 18 services shall be limited in capacity to the number of  
2 19 licensed residential care facilities and the number of  
2 20 licensed residential care facility beds in the state as of

2 21 December 1, 2003.

2 22 Sec. 3. NEW SECTION. 222.60A COST OF ASSESSMENT.

2 23 Notwithstanding any provision of this chapter to the  
2 24 contrary, any amount attributable to any fee assessed pursuant  
2 25 to section 249A.21 that would otherwise be the liability of  
2 26 any county shall be paid by the state. The department may  
2 27 transfer funds from the appropriation for medical assistance  
2 28 to pay any amount attributable to any fee assessed pursuant to  
2 29 section 249A.21 that is a liability of the state.

2 30 Sec. 4. Section 249.3, Code 2003, is amended by adding the  
2 31 following new subsection:

2 32 NEW SUBSECTION. 4. At the discretion of the department,  
2 33 persons who meet the criteria listed in all of the following  
2 34 paragraphs:

2 35 a. Are either of the following:

3 1 (1) Sixty-five years of age or older.

3 2 (2) Disabled as defined by 42 U.S.C. } 1382c(a)(3), except  
3 3 that being engaged in substantial gainful activity shall not  
3 4 preclude a determination of disability for the purpose of this  
3 5 subparagraph.

3 6 b. Live in one of the following:

3 7 (1) The individual's own home.

3 8 (2) The home of another individual.

3 9 (3) A group living arrangement.

3 10 (4) A medical facility.

3 11 c. Would be eligible for supplemental security income  
3 12 benefits but for having excess income or but for being engaged  
3 13 in substantial gainful activity and having excess income.

3 14 d. Are not eligible for another state supplementary  
3 15 assistance group.

3 16 e. Receive medical assistance under chapter 249A and are  
3 17 not required to meet a spend-down or pay a premium to be  
3 18 eligible for such benefits.

3 19 f. Is currently eligible for Medicare part B.

3 20 g. Have income exceeding one hundred thirty-five percent  
3 21 of the federal poverty level but not exceeding the medical  
3 22 assistance income limit for the eligibility group for the  
3 23 individual person's living arrangement.

3 24 Sec. 5. Section 249.4, Code 2003, is amended to read as  
3 25 follows:

3 26 249.4 APPLICATION == AMOUNT OF GRANT.

3 27 1. Applications for state supplementary assistance shall  
3 28 be made in the form and manner prescribed by the director or  
3 29 the director's designee, with the approval of the council on  
3 30 human services, pursuant to chapter 17A. Each person who so  
3 31 applies and is found eligible under section 249.3 shall, so  
3 32 long as the person's eligibility continues, receive state  
3 33 supplementary assistance on a monthly basis, from funds  
3 34 appropriated to the department for the purpose.

3 35 2. Any person who applies within fifteen months from the  
4 1 date of implementation of eligibility pursuant to section  
4 2 249.3, subsection 4, and who would have been eligible under  
4 3 that subsection for any period on or after October 1, 2003,  
4 4 may be granted benefits retroactive to October 1, 2003.

4 5 Sec. 6. Section 249A.21, subsection 1, Code 2003, is  
4 6 amended to read as follows:

4 7 1. The department may assess intermediate care facilities  
4 8 for persons with mental retardation, as defined in section  
4 9 135C.1, ~~that are not operated by the state,~~ a fee in an amount  
4 10 not to exceed six percent of the total annual revenue of the  
4 11 facility for the preceding fiscal year.

4 12 Sec. 7. Section 249A.21, Code 2003, is amended by adding  
4 13 the following new subsection:

4 14 NEW SUBSECTION. 6. The department may adopt  
4 15 administrative rules under section 17A.4, subsection 2, and  
4 16 section 17A.5, subsection 2, paragraph "b", to implement this  
4 17 section, and any fee assessed pursuant to this section against  
4 18 an intermediate care facility for persons with mental  
4 19 retardation that is operated by the state may be made  
4 20 retroactive to October 1, 2003.

4 21 Sec. 8. 2003 Iowa Acts, chapter 112, section 4, subsection  
4 22 9, is amended to read as follows:

4 23 9. The department may adopt administrative rules under  
4 24 section 17A.4, subsection 2, and section 17A.5, subsection 2,  
4 25 paragraph "b", to implement this section, and any assessment  
4 26 made pursuant to this section may be made retroactive to  
4 27 October 1, 2003.

4 28 Sec. 9. WAIVER PAYMENT SLOTS. The department of human  
4 29 services shall provide an opportunity for counties to request  
4 30 an expansion of the county's home and community-based waiver  
4 31 payment slots under the medical assistance program in order to

4 32 add slots to address the changes in the definition of  
4 33 "residential care facility" under chapter 135C made by this  
4 34 Act. Any expansion in the number of waiver payment slots as  
4 35 described in this section shall be implemented on July 1,  
5 1 2004, or the date authorized in the federal approval of the  
5 2 expansion of the waiver slots, whichever is later.  
5 3 Sec. 10. RETROACTIVE APPLICABILITY. The following  
5 4 provisions of this Act are retroactively applicable to October  
5 5 1, 2003:  
5 6 1. The provision creating section 222.60A, relating to the  
5 7 costs of the assessment for intermediate care facilities for  
5 8 persons with mental retardation.  
5 9 2. The provision creating section 249.3, subsection 4,  
5 10 relating to state supplementary assistance eligibility.  
5 11 3. The provision amending section 249.4, relating to  
5 12 applications and amounts of grants for state supplementary  
5 13 assistance.  
5 14 4. The provision amending section 249A.21, subsection 1,  
5 15 and the provision creating section 249A.21, subsection 6,  
5 16 relating to the nursing facility quality assurance assessment.  
5 17 5. The provision amending 2003 Iowa Acts, chapter 112,  
5 18 section 4, subsection 9, relating to the adoption of  
5 19 administrative rules relating to the nursing facility quality  
5 20 assurance assessment.  
5 21 Sec. 11. EFFECTIVE DATE. This Act, being deemed of  
5 22 immediate importance, takes effect upon enactment.  
5 23 HF 2134  
5 24 pf/es/25